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STATE OF LOUISIANA LEGISLATIVE AUDITOR

Town of Farmerville
Farmerville, Louisiana

September 18, 1998



Investigative Audit

Daniel G. Kyle, Ph.D., CPA, CFE
Legislative Auditor

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Town of Farmerville

September 30, 1998



**Investigative Audit
Office of the Legislative Auditor
State of Louisiana**

**Daniel G. Kyle, Ph.D., CPA, CFE
Legislative Auditor**

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LEGISLATIVE AUDITOR

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September 30, 1998

**THE HONORABLE WILLIE DAVIS, JR., MAYOR,
AND BOARD OF ALDERMEN
TOWN OF FARMERVILLE**
Farmerville, Louisiana

Transmitted herewith is our investigative report on the Town of Farmerville. Our examination was conducted in accordance with Title 24 of the Louisiana Revised Statutes and was performed to determine the propriety of certain allegations received by this office.

This report presents our findings and recommendations as well as the response of management for the Town of Farmerville. Copies of this report have been delivered to the Honorable Robert W. Levy, District Attorney for the Third Judicial District of Louisiana, and others as required by state law.

Respectfully submitted,

Daniel G. Kyle, CPA, CFE
Legislative Auditor

OPC:ESL/AFB/dl

(page 1 of 1)

Executive Summary

Investigative Audit Report Town of Farmerville

The following summarizes the findings and recommendations as well as management's responses that resulted from this investigation. Detailed information relating to the findings and recommendations may be found at the page number indicated. Management's responses may be found at Attachment I.

Mayor Used Public Funds and Labor on Personal Vehicles

(Page 1)

Findings:	Between March 1986 and January 1988, Mayor Willie Davis, Jr., used \$1,266 of public funds to provide parts and maintenance for his personal vehicles, including an engine for a car owned by the mayor and driven by his daughter. During that same period, the Town of Farmerville (Town) provided Mayor Davis with a public vehicle.
Recommendations:	We recommended that Mayor Davis comply with Louisiana law and no longer direct public funds to his personal use. We further recommended that the District Attorney for the Third Judicial District of Louisiana review this information and take appropriate legal action to include seeking restitution.
Management's Responses:	Mayor Davis stated that he intended to reimburse the Town for the purchase of the engine. Mayor Davis also stated that he paid the town employee with personal funds and was not aware that the Town of Farmerville also paid the employee for installation of the engine. Finally, Mayor Davis stated that he replaced the tires on his personal truck and made minor repairs to the truck in lieu of receiving mileage for the use of his truck for Town business.

Town Fireman Used Public Equipment for Private Use**(Page 2)**

Findings:	Mr. Billy Jung, Town fireman, used public equipment to transport a storage building to his private hunting camp. Mr. Jung received this building in exchange for signing up a property owner for the Town's clean up campaign.
Recommendation:	We recommend that the Town of Farmerville implement policies and procedures to ensure that the Town's assets are only used to serve public purposes. We recommend that the District Attorney for the Third Judicial District of Louisiana review this information and take appropriate legal action.
Management's Response:	Management states that the prohibition against using the Town's assets for private purposes has been explained to Mr. Jung as well as other Town employees and an amendment will be made to reflect personnel policies regarding the use of Town equipment by employees.

Background and Methodology

The Town of Farmersville is a township within Union Parish incorporated in 1852 under a Legislative Charter.

The Office of the Legislative Auditor received information indicating that a firm was for the Town of Farmersville used public equipment to transport a storage building to a private hunting camp. This investigation was conducted to determine the accuracy of this information and other matters that came to our attention.

Our procedures consisted of (1) interviewing employees and officials of the Town; (2) interviewing other persons as appropriate; (3) examining selected documents and records of the Town; (4) making inquiries and performing tests to the extent we considered necessary to achieve our purpose; and (5) reviewing applicable state and federal laws.

The results of our investigation and the findings and recommendations presented herein.

Findings and Recommendations

MAJOR USED PUBLIC FUNDS AND LABOR ON PERSONAL VEHICLES

Between March 1996 and January 1998, Mayor Willie Davis, Jr., used \$1,166 of public funds to provide parts and maintenance for his personal vehicles, including an engine for a car owned by the mayor and driven by his daughter. During that same period, the Town of Farmersville (Town) provided Mayor Davis with a public vehicle.

In July 1997, the Town purchased and installed an engine into Mayor Davis' 1992 Plymouth Sundance. According to Town mechanic and sanitation supervisor, Mr. Larry Adkins, Mayor Davis instructed him to locate, purchase, and pick up an engine for a 1992 Plymouth Sundance. When Mr. Adkins found the engine, Mayor Davis told him that he (Davis) would reimburse the Town for the cost of the engine and signed a Town purchase order for the engine. Mr. Rod Demott, Town mechanic, explained that he installed the engine on a Saturday while being paid overtime by the Town.

Town records indicate that the Town was not reimbursed for the cost of the engine. Mayor Davis stated that he could not remember who might have paid for the engine even though Town records indicated that he personally signed the Town check for \$450 paying for the engine. We showed Mayor Davis the Town purchase order that he signed and the Town check issued for the engine. He stated that he could not explain why he would sign a Town purchase order for an engine for a personal vehicle. He explained that \$450 was nothing to him and that he would reimburse the Town because he was not going to go through all of this for \$450. Mayor Davis then excused himself from our meeting and left the office returning several minutes later. Mayor Davis told us that he gave his secretary, Ms. Nell Wayne, \$450 to purchase a money order to reimburse the Town. Ms. Gay Nell McIntosh, Town Clerk, deposited the money order into the Town's account and provided us with a copy of the deposit receipt.

On March 8, 1999, the Town Council voted to place Mayor Davis' personal truck and the Town clerk's car into Town service. However, a tape recording of the meeting indicates that Mr. Thad Wallace, Town Council member, questioned what was meant by placing the vehicles into service. Mr. Wallace further asked if placing the vehicles into service meant that the Town would simply be responsible for washing the vehicles. Mayor Davis responded "yes." Ms. McIntosh stated that the recording of the council meeting sounded as though the council was allowing her car and the mayor's truck to get washed. Ms. McIntosh further stated that she allowed the Town to wash her car but did not feel comfortable having Town employees work on her car.

The Town has maintained and repaired the mayor's 1991 Dodge pickup truck since March 1993. Since March 1996, the Town has serviced and purchased numerous parts for the mayor's 1991 truck including tires and a metal truck box at a cost of \$722 to the Town. Mayor Davis stated

that he felt justified in having the Towns buy tires and a truck box for his truck because he went his time out on Town business. He also stated that he uses the truck box for storage when he goes out of town. Mayor Davis explained that he pulls the Town's trash trailer with his truck. However, Mr. Larry Aulkins, Mr. Bill Davis, and Mr. Rod Bennett, Town employees, all stated that they have never seen the mayor pull the trash trailer with his Dodge truck. They further explained that Mayor Davis uses the Town's white Suburban to pull the trash trailer. In addition, the Town has provided the mayor with a vehicle for at least the past two years. Ms. McIntosh informed us that Mayor Davis has been provided three different Town vehicles during this time period.

Because Mayor Davis used Town funds and labor for personal use, he may have violated the following Louisiana laws:

- R.S. 14:63, "Theft"
- R.S. 14:134, "Malfeasance in Office"
- R.S. 14:135, "Payroll Fraud"
- R.S. 42:1461(A), "Obligation of Public Officials Not to Misappropriate"
- Article I, Section 34 of the Louisiana Constitution, "Donation of Public Assets"

We recommend that Mayor Davis comply with Louisiana law and no longer divert public funds to his personal use. We further recommend that the District Attorney for the Third Judicial District of Louisiana review this information and take appropriate legal action, to include seeking restitution.

TOWN FIREMAN USED PUBLIC EQUIPMENT FOR PRIVATE USE

Mr. Billy Jung, Town fireman, used public equipment to transport a storage building to his private hunting camp. Mr. Jung received this building in exchange for signing up a property owner for the Town's clean up campaign.

During the Town of Farmerville's (Town) clean up campaign, which was held between March 16 and May 15, 1998, Mr. Jung used the Town's truck, trailer, and backhoe to transport a storage building to a private hunting camp. Mr. Jung obtained the building from property owned by Mr. Leonard Ventress in return for signing up Mr. Ventress for the Town's clean up campaign. Before the clean up campaign, the home owned by Mr. Ventress burned down leaving only a 12' x 30' storage building behind. The burned home was eventually removed by the Town during the clean up campaign.

Mr. Jung and Mr. Mike Allen, Water Department supervisor, both stated that the Town's truck and trailer were used to transport the building. However, both stated that no public employee labor was used. Mr. Jung explained that a backhoe from the Cactus Construction Company was used to load and unload the building. In our second meeting, Mr. Jung told us that the Town's backhoe was used to unload the building from the trailer. He further stated that he was not truthful during the first meeting with us because he did not want to get any of the Town's employees in trouble.

Mr. Kenneth Hilberry and Mr. Billy Wallace, Streets Department employees, both stated that, while on their lunch hour, Mr. Hilberry drove the Town's backhoe to the hunting camp while Mr. Wallace followed in a Town truck. According to both employees, they unloaded the building, loaded the backhoe onto the trailer, and drove the truck and trailer back to Town.

Because Mr. Jung used public equipment for private purposes, he may have violated Article 3, Section 14 of the Louisiana Constitution, "Disposition of Public Assets."

We recommend that the Town of Farmerville implement policies and procedures to ensure that the Town's assets are only used to serve public purposes. We recommend that the District Attorney for the Third Judicial District of Louisiana review this information and take appropriate legal action.

Attachment I

Management's Response

Town of Farmerville

P.O. Box 487
Farmerville, La 71331
Phone: (504) 368-0544
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Mayor Davis
MAYOR
"Chief" Commissioner
MAYORAL
City Hall Meetings
TOWN COUNCIL MEETINGS
Bureau Of Culture
TOWN ATTORNEY

September 14, 1998

1998-09-14
09:03:15
ALLEGHENY
Jenny L. Taylor
T. J. Williams
Brenton L. Davis
Gloria Martin
Brenda Taylor

Daniel G. Kyle, CPA, CFE
Legislative Auditor
State of Louisiana
P.O. Box 94393
Baton Rouge, LA 70804-0397

Dear Mr. Kyle:

In response to your findings as stated in the preliminary draft of your investigative report of the Town of Farmerville, I provide the following information:

1) A. When the engine of Mayor Davis' 1993 Scion was needed replacement, it seemed only reasonable for him to ask the trusted town mechanic/mechanic supervisor, Mr. Larry Adkins, as to where a new or good used motor could be found. Mayor Davis requested that Mr. Adkins "keep his eyes open" for a replacement, and if Mr. Adkins found one, to purchase the same. When Mr. Adkins did find the needed motor, he had no other means to pay for it except to charge it to the town. This did not appear to be a problem, since Mayor Davis had every intention of reimbursing the town for the purchase. The invoice was clearly in the file, and the town's annual internal audit would have caught the oversight. The Mayor would have paid the invoice then. The town was reimbursed immediately by the Mayor when he was reminded of the outstanding invoice.

B. Mayor Davis paid the town mechanic, Mr. Bennett, for the installation of the subject motor from his personal funds, and was unaware that the Town of Farmerville had also paid the employee.

2) A. On March 8, 1993, the Town Council voted to place Mayor Davis' personal truck into Town service. Because the Mayor believed this to mean that the vehicle was to be used for the service of the Town of Farmerville, he also believed the expenses of the vehicle were to be paid by the Town. The Mayor uses the truck for town business while his town vehicle is unavailable, either for repairs or servicing. The town vehicles are purchased through state surplus in an attempt to be economical. Purchasing used vehicles, does, however, require that the vehicles be out of service more frequently, since they are previously owned and discarded by other state agencies. Since the Town of Farmerville does not have the means to provide spare vehicles,

Mayor Davis has repeatedly used his personal truck for town business during times when the Mayor's town vehicle is unavailable. Mayor Davis has used his personal vehicle for business trips for the Town of Farmersville, including trips to Alexandria and Minden, and as far away as Missouri. He has not requested, nor has he been offered reimbursement for mileage for these trips, which would have cost the town approximately \$466.20. Mayor Davis replaced the tires on his personal truck and made minor repairs to the same, with town funds in lieu of reimbursement for mileage. He believed this to be acceptable since the truck had been placed into Town service by the Town Council in 1983.

B. The subject tool box purchased by the Town of Farmersville is a detachable tool box used at times on the Mayor's personal truck. It is used to store various items, including tools, raincoat, change of clothing, etc. The Mayor uses these items when called upon to be out of his office during inclement weather or emergency situations such as flooding or power outages. When Mayor Davis is no longer in office, the subject tool box will be used on other vehicles owned by the Town of Farmersville.

C. Mr. Billy Jung, Town Fireman used public equipment to transport to his private hunting camp, a storage building he obtained in the course of the Town of Farmersville's clean-up campaign. Admittedly it would have been "proper" had the storage building simply been transported to the dump by public equipment, instead of being recycled into some useful purpose. The intent of Mr. Jung and the other employees involved was not to take advantage of the Town as evidenced by the care that was taken not to mess the storage building while on the Town payroll. The distinction of using the Town's assets for private purposes has been explained to Mr. Jung as well as all other Town employees. An amendment will be made to reflect personnel policies regarding the use of town equipment by employees. It is the opinion of management that Mr. Jung, in an indirect way felt that the removal of the storage building was a quasi-public function offset by the fact that all travel time was "off the Town time-clock."

I hope the above information is helpful to your office and appreciate your assistance in bringing these matters to our attention.

Respectfully,

TOWN OF FARMERSVILLE


Willie Davis
Mayor

Attachment II

Legal Provisions

Legal Provisions

The following legal citations are referred to in the Findings and Recommendations section of this report:

R.S. 14:67 provides that theft is the misappropriation or taking of anything of value which belongs to another, either without the consent of the owner to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations.

R.S. 14:134 provides, in part, that malfeasance in office is committed when any public officer or public employee shall (1) intentionally refuse or fail to perform any duty lawfully required of him, as such officer or employee; (2) intentionally perform any such duty in an unlawful manner; or (3) knowingly permit any other public officer or public employee, under his authority, to intentionally refuse or fail to perform any duty lawfully required of him or to perform any such duty in an unlawful manner.

R.S. 14:138 provides, in part, that payroll fraud is committed when any public officer or public employee shall steal, cause to be stolen, or permit to be stolen, directly or indirectly, upon the employment list or payroll of his office, the name of any person as employee, or shall pay any employee, with knowledge that such employee is receiving payment or compensation for services not actually rendered by said employee or for services grossly inadequate for such payment or compensation.

R.S. 42:1481(A) provides that officials, whether elected or appointed, by the act of accepting such office assume a personal obligation not to misappropriate, misapply, convert, misuse, or otherwise wrongfully take any funds, property or other thing of value belonging to the public entity in which they hold office.

Article 7, Section 14 of the Louisiana Constitution provides that except as otherwise provided by this constitution, the funds, credit, property, or things of value of the state or of any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation, public or private.